

## REMARKS

Pursuant to 37 C.F.R. § 1.111, reconsideration of the claim rejections of the Office Action dated July 3, 2006 is respectfully requested by the Applicant.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 1 – 20, 30 – 61, and 63 – 67 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Hendrickson (U.S. Patent No. 5,365,579) in view of Neumann et al. (U.S. Patent No. 6,175,872). Claims 21 – 29, 62, 68, and 69 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Hendrickson in view of Neumann et al. and well-known prior art.

Claim 1 recites, *inter alia*, a second state change associated with said audio stream player indicating the start of audio playback of the digital audio file, and said synchronization program initiating said audio capture program on said client device at a fixed time interval calculated from when said second state change is detected for synchronizing capture.

Hendrickson fails to disclose initiating said audio capture program on said client device at a fixed time interval calculated from when said second state change is detected for synchronizing capture. As expressed by the Examiner, “Hendrickson does not teach the first and second state change associated with a synchronization program on a client” (Office Action dated July 3, 2006; page 2). Since Hendrickson does not teach the second state change, Hendrickson does not suggest initiating audio capture at a fixed time from when the second state change is detected. Accordingly, claim 1 is allowable over the teachings of Hendrickson.

Neumann et al. also fail to disclose or suggest initiating said audio capture program on said client device at a fixed time interval calculated from when said second state change is detected for synchronizing capture. Neumann et al. teach “setting up the collaborative environment for musicians not located together” (column 4, lines 47 – 50), creating MIDI data, “wrapping the MIDI data for transmitting” (column 5, lines 6 – 7); transferring the MIDI data to the network computer (column 5, lines 49 – 50), and then placing the MIDI

data into the proper relative time sequence (column 5, lines 50 – 51). After all of these steps, the MIDI data is played “in precise time synchronization” (column 3, lines 47 – 50). “When the users begin to play, data is generated by the synthesizer 76 and sent to the serial port 78” (column 5, lines 36 – 38). Neumann et al. time position the MIDI data after all steps have been completed. MIDI data is transmitted, and then placed in a relative time sequence at the network computer. Neumann et al. do not suggest initiating data capture when the second stage (audio stream indicating the start of audio playback) is detected. When a user begins to play, the data is sent to a port. Neumann et al. fail to disclose that the synthesizer 76 is initiated by the audio playback (second stage). Accordingly, claim 1 is allowable over the cited references.

The Examiner cites to col. 5, lines 24-26 and 43-48 as showing initiating audio capture at a fixed time interval calculated from when a second state change is detected. Neumann et al. disclose time positioning of the MIDI data. Neumann et al. teach “the local and remote systems are synchronized to a time clock” (column 5, lines 23 - 24). The “MIDI data is time stamped when generated by the local computer system with the absolute network time (NTP) to which the networked computers are synchronized” (column 5, lines 43 – 46). “In this manner all MIDI data being received at any network computer from any remote site can be time positioned in the proper relative time sequence with respect to all the received MIDI data” (column 5, lines 48 – 51). Neumann et al. teach the MIDI data is time positioned using a clock that time stamps the MIDI data with respect to a synchronized clock. One skilled in the art would understand that time positioning of a signal is different than initiating said audio capture program on said client device at a fixed time interval calculated from when said second state change (e.g., audio playback) is detected for synchronizing capture. Neumann et al. rely on network clock synchronization, so do not suggest initiating audio capture from when the audio playback is detected. Neumann use time stamping based on the network clock, so do not suggest initiating audio capture from when the audio playback is detected.

Claim 1 is allowable for additional reasons that are independent of the reasons set forth above. Claim 1 is allowable because there is no motivation to combine the arrangements disclosed by Neumann et al. and Hendrickson in the manner of claim 1. Hendrickson teaches that “the sound receiver terminal is configured to send the synchronization signals” (column 6, lines 23 – 25). Hendrickson et al. transmit audio data, video data, and synchronization information where the synchronization is used to align the audio and video at a remote location. Conversely, Neumann et al. teach establishing a network clock standard for synchronization (column 5, lines 3 – 5) and a process for positioning the MIDI data in the proper relative time sequence (column 5, lines 40 – 56). The combination of the teaching of Neumann et al. to the teaching of Hendrickson would re-synchronize a signal that has already been synchronized. This double synchronization is repetitious and would not have been used by a person of ordinary skill in the art. Accordingly, claim 1 is allowable over the cited references.

The Examiner expressed that the combination of the teachings of Hendrickson and Neumann et al. makes “real-time or near real-time collaboration between musicians possible” (Office Action dated July 3, 2006; page 3). Applicant respectfully submits that a person of ordinary skill would not have combined the teachings of Hendrickson and Neumann et al. to make real-time or near real-time collaboration between musicians possible. Hendrickson teaches “[t]his arrangement allows the motion picture director to view the motion picture at receiving studio 14 while simultaneously listening to the soundtrack that is simultaneously being sent from sending studio 20” (column 7, lines 44 – 47). Hendrickson teaches that multiple tracks can be sent to the receiving studio, for example, from Los Angeles and San Francisco (column 6, lines 24 – 28). In other words, Hendrickson teaches real-time or near real-time use. Accordingly, there is no motivation to combine the teachings of Hendrickson and Neumann et al.

Neumann et al. teach graphical user interfaces (GUI) “that organize and provide a means for setting up the collaborative environment for musicians not located together” (column 4, lines 47 – 50). However, Neumann et al. teach an embodiment that accesses remote sites “assuming the archived site incorporated” the arrangement disclosed by Neumann et al. (column 6, lines 36 – 37). Neumann et al. requires that the “archived site

incorporate” the arrangement. Hendrickson provides for communications between the receiving and sending studios without such limitations. Given the specific arrangement of Neumann et al. with remote site incorporation of specific arrangement, a person of ordinary skill in the art would not have used the teachings of Neumann et al. with Hendrickson since Hendrickson is not directed to a collaborative environment. Accordingly, claim 1 is allowable over the cited prior art.

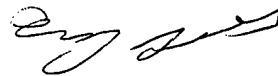
Dependent claims 2 – 9 depend from allowable claim 1, so are allowable for at least this reason. Further limitations of the dependent claims are allowable over the cited references. The cited references fail to disclose or teach streaming compressed data as recited in claim 3. Neumann et al. teach a stream of Musical instrument Digital Interface (MIDI) data from the synthesizer and then “bundling the MIDI data for local storage” (column 4, lines 27 – 29). Neumann et al. does not teach streaming compressed data. The cited references fail to disclose stopping the audio capture program based on a detected change as recited in claims 5 and 9. Stopping the program after detecting a change is not inherent in the combination as other options would be possible. The references fail to disclose uploading captured data as recited in claim 6 and 7. There is no purpose to upload data from the receiving studio to the sensing studio in the teachings of Hendrickson.

Independent claims 10, 21, 30, 41, and 50 recite features that are similar to the distinguishable features of claim 1, so are allowable for at least the reasons stated above. Dependent claims 11 – 20; 22 – 29; 31 – 40; 42 – 49; and 51 – 69 depend from the respective independent claim, so are allowable for at least the reason stated above.

### CONCLUSION

Applicants respectfully submit that all of the pending claims are in condition for allowance and seeks early allowance thereof. If for any reason, the Examiner is unable to allow the application but believes that an interview would be helpful to resolve any issues, he is respectfully requested to call the undersigned at (312) 321-4200.

Respectfully submitted,



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